



City of Marietta Meeting Agenda

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

CITY COUNCIL

William B. Dunaway, Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Holly Marie Walquist, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, May 13, 2009

7:00 PM

Council Chamber

CALL TO ORDER:

INVOCATION:

The Rev. Anthony Coleman, Ward 5

PLEDGE OF ALLEGIANCE:

PRESENTATIONS:

20090443 MPD State Certification Award

Mr. Frank Rotondo, Executive Director, Georgia Association of Chiefs of Police will present Deputy Chief David Lee with an award for State Certification for the Marietta Police Department.

20090392 Marietta Citizens' Police Academy Graduates

Presentation of certificates by Officer Joshua Liedke and Deputy Chief David Lee to graduates of the Marietta Citizens' Police Academy.

Greg Barnes
Lynda Bricker
Michael Cain
Robert Canada
Alexander Castillo
Mark Crenshaw
Amy Gunter
Carole Hileman
Donald Jett
Larry Konieczny
Mark Kornfield
Daniel Martin
Michael Pierre
Surendra Shah
Shannon Smith
James Warmus

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

MINUTES:

* **20090399 Regular Meeting - April 15, 2009**

Review and approval of the April 15, 2009 regular meeting minutes.

MAYOR'S APPOINTMENTS:**CITY COUNCIL APPOINTMENTS:**

* **20090354 Board of Zoning Appeals Appointments**

Reappointment of Ron Shultz (Ward 1), James Mills (Ward 3), and G. Marshall Dye (Ward 4) to the Board of Zoning Appeals for 3-year terms.

* **20090357 MRC Board Vice Chairman**

Motion to appoint Ronald H. Francis as Vice Chairman of the Marietta Redevelopment Corporation (MRC) Board of Directors for the term of one year.

* **20090355 MRC Board Appointment**

Appointment of Randy Weiner to Marietta Redevelopment Corporation (MRC) Board of Directors for a term of 2-years expiring April 10, 2011.

* **20090385 MDA Board Appointment**

Motion to reappoint Ed Hammock (Post 2) for a 2-year term, John Elliott (Post 4) for a 4-year term to the Marietta Development Authority.

* **20090438 MDA Board Appointment**

Appointment of Steven F. McNeel (Post 1) for a 2-year term to the Marietta Development Authority.

ORDINANCES:

20090182 Z2009-06 World Plaza, a portion of 1200 Cobb Parkway North

Z2009-06 [REZONING] WORLD PLAZA, LLC request rezoning for property located in Land Lot 931, 16th District, Parcel 20, 2nd Section, Marietta, Cobb County, Georgia and being known as a portion of 1200 Cobb Parkway North from GC [General Commercial (County)] to CRC [Community Retail Commercial (City)]. Ward 4.

Planning Commission recommends approval *Vote: 7 - 0 - 0*

Stipulation: n/a

PUBLIC HEARING REQUIRED (all parties are sworn in)

This item was presented at the April 1, 2009 Planning Commission then tabled

by the applicant to the May 13, 2009 City Council Meeting.

20090183 A2009-01 World Plaza (Eraj Dositareh), a portion of 1200 Cobb Parkway North

A2009-01 [ANNEXATION] WORLD PLAZA (ERAJ DOSITAREH) request annexation for property located in Land Lot 931, District 16, Parcel 20 and being known as a portion of 1200 Cobb Parkway North, 2nd Section, Cobb County, Georgia consisting of 0.407 acres. Ward 4.

Planning Commission recommends approval Vote: 7 - 0 - 0

Stipulation: n/a

PUBLIC HEARING REQUIRED (all parties are sworn in)

This item was presented to the April 1, 2009 Planning Commission Meeting and was tabled by the applicant to the May 13, 2009 City Council Meeting.

20090184 CA2009-02 World Plaza (Eraj Dositareh) a portion of 1200 Cobb Parkway North

CA2009-02 [CODE AMENDMENT] WORLD PLAZA, LLC (ERAJ DOSITAREH) in conjunction with the requested annexation of property located in Land Lot 931, District 16, Parcel 20, 2nd Section, Marietta, Cobb County, Georgia, the City of Marietta proposes to designate the Future Land Use of said property as CAC (Community Activity Center). Ward 4.

Planning Commission recommends approval Vote: 7 - 0 - 0

Stipulation: n/a

PUBLIC HEARING REQUIRED (all parties are sworn in)

This item was presented to the Planning Commission at their April 1, 2009 meeting and was tabled by the applicant to the May 13, 2009 City Council Meeting.

20090101 Z2009-04 Acme American, LLC (Joel Digby) 301 and 311 Old Clay Street

Z2009-04 [REZONING] Acme American, LLC (Joel A. Digby) request rezoning for property located in Land Lots 02880 and 02890, 17th District, Parcels 0390 and 0120, 2nd Section, Marietta, Cobb County, Georgia and being known as 301 and 311 Old Clay Street from OI (Office Institutional) and R-4 (Single Family Residential 4 units/acre) to CRC (Community Retail Commercial). Ward 5.

Planning Commission recommends approval w/ variances and stipulationsVote: 4 - 3 - 0

Variances:

- 1. Variance to waive the required forty (40) foot buffer area adjacent to a residential district. [Section 708.16.I]*
- 2. Variance to increase the maximum floor area ratio from 0.5 to 2.0. [Section 712.09.G.1.b.ii]*
- 3. Variance to waive the 10% minimum open space requirement. (Open Space is defined as "any parcel or area of land or water essentially unimproved and set aside, dedicated, designated or reserved for public or private use or*

enjoyment.” [Section 712.09.G.2.b.iv]

Stipulations:

1. *Permitted uses shall be limited to those stated in a letter from Joel A. Digby, dated January 20, 2009. Any future changes to the proposed list of approved uses shall be subject to approval by City Council.*
2. *Leadership in Energy and Environmental Design (LEED) certification shall be obtained from the U. S. Green Building Council prior to issuance of a Certificate of Occupancy.*
3. *A six foot sidewalk zone shall be constructed on the Clay Street property line abutting the public right of way. Future consideration shall be given to a right of way for a trail, sidewalk, bicycle path, etc, if ever constructed along the South Marietta Parkway.*
4. *Exterior garage access doors shall be of residential or historic character in design.*
5. *That the applicant be required to comply with Tier B Overlay requirements in the Commercial District.*

PUBLIC HEARING REQUIRED (all parties are sworn in)

As disclosed in the annual disclosure filed pursuant to the City of Marietta's Ethics Ordinance, Councilman Goldstein is a partial owner of and a General Partner for the Herbert S. Goldstein Family Limited Partnership which owns a residential dwelling at 336 Old Clay Street.

20090303 Z2009-07 Marietta Housing Authority 268-300 Victory Drive and 127 Vista Circle

Z2009-07 [REZONING] MARIETTA HOUSING AUTHORITY request rezoning for property located in Land Lot 1286, 16th District, Parcels 68, 69, 70, 71, 72, 85, and 67, 2nd Section, Marietta, Cobb County, Georgia and being known as 268, 272, 280, 284, 286 and 300 Victory Drive and 127 Vista Circle from R-4 (Single Family Residential 4 units/acre) to RM-10 [Multi-Family Residential (10 units/acre)]. Ward 1.

Planning Commission recommends approval w/stipulation Vote: 7 - 0 - 0

Motion: Mrs. Watkins made a motion to recommend approval of the rezoning as submitted with the stipulation that any specific site plans for future redevelopment must be brought back before City Council for approval, seconded by Mr. Kinney. Chairman Dollar made a friendly amendment that the rezoning be approved with the stipulation that the final site plans must be reviewed and approved by Planning Commission, seconded by Mr. Carter.

Stipulation: Final site plan must be reviewed by Planning Commission and approved by City Council.

PUBLIC HEARING REQUIRED (all parties are sworn in)

**20090304 Z2009-08 Union Chapel United Methodist Church and First Landmark Bank
315 Cole Street**

Z2009-08 [REZONING] UNION CHAPEL UNITED METHODIST CHURCH & FIRST LANDMARK BANK request rezoning for property located in Land Lot 11450, 16th District, Parcel 1330, 2nd Section, Marietta, Cobb County, Georgia and being known as 315 Cole Street from R-4 (Single Family Residential 4 units/acre) to OI (Office Institutional). Ward 5.

Planning Commission recommends approval

Vote: 7 - 0 - 0

Motion: Mr. Diffley made a motion to approve, seconded by Mr. Carter.

Stipulation: n/a

PUBLIC HEARING REQUIRED (all parties are sworn in)

Councilmember Goldstein disclosed that the First Landmark Bank leases parking spaces at 48 Atlanta Street and is a subtenant in an adjacent building.

20090305 Z2009-09 Union Chapel United Methodist Church 264 and 268 Fowler Circle

Z2009-09 [SPECIAL LAND USE PERMIT] UNION CHAPEL UNITED METHODIST CHURCH request a Special Land Use Permit for a place of assembly (to allow the Church to construct additions to its building) for property located in Land Lot 11450, 16th District, Parcels 216 and 217, 2nd Section, Marietta, Cobb County, Georgia and being known as 264 and 268 Fowler Circle with a current zoning of R-4. Ward 5.

Planning Commission recommends approval w/variances Vote: 7 - 0 - 0

Motion: Mr. Kinney moved to recommend to City Council, seconded by Mrs. Sonnenfeld, that the Special Land Use Permit (SLUP) be approved as submitted, including variances as follows:

Variances:

- 1. Variance to reduce the front setback from 75 feet to 21 feet. [708.04.E.1.b]*
- 2. Variance to reduce the major side setback from 75 feet to 27 feet. [708.04.E.1.b]*
- 3. Variance to reduce the side setback from 75 feet to 16 feet. [708.04.E.1.b]*
- 4. Variance to reduce the rear setback from 75 feet to 46 feet. [708.04.E.1.b]*
- 5. Variance to reduce the 10 foot landscape strip to 0 feet to allow existing parking lot to remain. [712.08.G.2 and 712.08.G Table G]*
- 6. Variance to allow required parking to occur on an adjacent bank property to the east, currently identified as 301 North Marietta Parkway, and 315 and 319 Cole Street. [716.07.A]*

PUBLIC HEARING REQUIRED (all parties are sworn in)

*** 20090415 Code Enforcement - 600 Tom Read Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 600 Tom Read Drive.

Listed Owner: Webb Jason D

Repeat Violation History: (5) cases since September 2007
Certified mail receipt received 04/24/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED

* **20090426 Code Enforcement - 1425 Cunningham Road**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 1425 Cunningham Road.
Listed Owner: Joseph Milk
Repeat Violation History: (5) cases since October 29, 1998.
Certified mail receipt not received as of 04/30/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED Philip M. Goldstein abstaining

* **20090431 Code Enforcement - 351 McArthur Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 351 McArthur Drive.
Listed Owner: Timothy Neal Weddington
Repeat Violation History: (4) cases since March 2, 2004.
Certified mail receipt not received as of 04/30/09.
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090432 Code Enforcement - 353 McArthur Drive**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 353 McArthur Drive.
Listed Owner: Timothy Neal Weddington
Repeat Violation History: (2) cases since August 15, 2008.
Certified mail receipt received on 04-27-09 --- MARKED "REFUSED."
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

* **20090435 Code Enforcement - 271 Lemon Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 271 Lemon Street.
Listed Owner: Elizabeth Delores Ellerbee
Repeat Violation History: (3) cases since April 4, 2008.
Certified mail receipt received on 04/23/09 marked "FORWARDING TIME EXPIRED."
Taxes paid: Yes
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

- * **20090437 Code Enforcement - 418 Atwood Drive**
An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 418 Atwood Drive.
Listed Owner: Mary B. Kandul (deceased)
Repeat Violation History: (1) case since July 29, 2004.
Certified mail receipt received on 4/25/09; signed by deceased's daughter-in-law.
Taxes paid: Owes \$2,405.77 for 2008.
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining
- * **20090442 Code Enforcement - 396 Polk Street**
An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 396 Polk Street.
Listed Owner: Dempsey Funeral Services of Georgia, Inc.
Repeat Violation History: (3) cases since May 8, 2008.
Certified mail receipt received 04-30-09; not signed by Officer of Corporation.
Taxes paid: Cemetery is EXEMPT from city taxes.
PUBLIC HEARING REQUIRED
Philip M. Goldstein abstaining

RESOLUTIONS:**CITY ATTORNEY'S REPORT:**

- * **20090444 Denial of claim**
Motion to deny the claim of Elyse Murray.

CITY MANAGER'S REPORT:**MAYOR'S REPORT:****COMMITTEE REPORTS:**

- 1. Economic/Community Development: Grif Chalfant, Chairperson**
- 2. Finance/Investment: Annette Lewis, Chairperson**

- * **20090290 Marietta Flea Market Donation**
Ordinance appropriating \$1,000 from Marietta Flea Market for fire safety programs.
- * **20090377 Erosion Control Fine Proceeds**
Approval of an Ordinance amending the Fiscal Year 2009 budget to receive and appropriate a fine in the amount of \$35,000 for erosion control violations to be used for the storm water NPDES program in the Public Works Department.
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3. Judicial/Legislative: Philip M. Goldstein, Chairperson*** 20090241 Temporary Polling Place Change - Ward 7A**

Motion to approve the temporary polling place change for Ward 7A for the 2009 Elections, which will be the Mansour Center, 995 Roswell Street, Marietta, GA 30060.

*** 20090328 Call of the General Election for November 3, 2009**

An Ordinance to provide for the call of the General Election for the City of Marietta, Georgia; and to provide for the date for any runoff required where no candidate receives a majority of the votes cast.

*** 20090329 Election Contract - Cobb County Board of Elections**

Motion to approve a contract with the Cobb County Board of Elections to conduct the City of Marietta November 3, 2009 General Elections and Registration.

*** 20090330 Election Contract - Marietta Board of Education**

Motion to approve the contract with the Marietta Board of Education regarding the conduct of the November 3, 2009 General Election and related expenses.

*** 20090381 732 Kennesaw Avenue**

Motion to revise the stipulations that were attached to that zoning approval for the property located at 732 Kennesaw Avenue (#20010043) on February 14, 2001, so as to eliminate stipulation that "Two large trees at northwest corner of property shall be preserved". The remaining stipulations (identified below) shall remain in effect.

1. All buildings must be one story with sloping shingle roofs. Slope of roof must be at least 6 feet vertical for each 12 feet horizontal (30% slope). Three dimensional architectural type shingles must be used.
2. All building sides must be brick. No electric meter, panel box or other metal electrical exterior wall attachment shall be visible from Kennesaw Avenue. Any outdoor mechanical units shall not be visible from Kennesaw Avenue.
3. No parking spaces or detention ponds shall be permitted within the front building setback line along Kennesaw Avenue.
4. The front building setback of 40 feet shall be measured from the new right of way line for Kennesaw, not the pre-existing right-of-way line.
5. Any trash dumpster location shall not be visible from Kennesaw Avenue.
6. The only signage shall be a ground based brick monument sign. Sign may not have any plastic or metal surface visible.
7. There shall be no fence along the front of the property.
8. Front of property to be screened through use of berms and/or landscaping so as to hide vehicles in parking lot
9. Total area of buildings on property to be limited to 19,000 square feet.

Council member Chalfant abstains

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20090386 First Landmark Bank

Motion to revise the stipulations (as requested in a letter from J. Kevin Moore to Russell J. Roth dated April 22, 2009) that were attached to that zoning approval for the property located at 307 & 325 North Marietta Parkway, and 321 Cole Street (#20080933) on September 10, 2008 (letter of stipulations and conditions dated September 9, 2008 from J. Kevin Moore to Russell J. Roth attached). The stipulations would be revised for the purpose of allowing a fence and retaining wall that exceed the height requirements for a fence. (Detailed elevations attached).

Councilmember Goldstein disclosed that the First Landmark Bank leases parking spaces at 48 Atlanta Street and is a subtenant in an adjacent building.

4. Parks, Recreation and Tourism: Holly Walquist, Chairperson**20090394 Future Parks Bond Referendum**

Motion to add a Parks Bond Referendum to the November 3, 2009 ballot.

5. Personnel/Insurance: Van Pearlberg, Chairperson**6. Public Safety Committee: Anthony Coleman, Chairperson****7. Public Works Committee: Jim King, Chairperson**

- * **20090365 Polk Street at Marietta Middle School**
- Motion approving the request by the Marietta Touchdown Club to implement a painting project and to allow Public Works to assist the Marietta Touchdown Club with implementation. Also, approval of a written maintenance agreement for the paintings holding the Touchdown Club responsible for all maintenance. Further, approval to allow the city to perform street or utility work without any responsibility to repair or replace paintings and said agreement allows the city to request removal of paintings within 30 days.
- * **20090366 General Street and Drainage Improvements**
- Motion to approve 2009 SPLOST General Drainage Projects as recommended by the Public Works Department.
- * **20090368 North Woodland Drive at South Woodland Drive**
- Motion approving a request to replace yield sign with stop sign at the intersection of North Woodland and South Woodland Drive.
- * **20090369 North Woodland Drive at Whitlock Drive**
- Motion approving a request to replace yield sign with stop sign at intersections of Whitlock Drive and North Woodland Drive for sidewalk project.
Councilmember Goldstein opposed.
- * **20090372 Lawrence Street, Haynes Street, and Washington Avenue**
- Motion approving a Landscape License Agreement for sidewalks along city streets surrounding the new Cobb County Courthouse.

- * **20090373 Easement and Bridge Agreement**
Motion approving a County Courthouse Easement and Bridge Agreement.
- * **20090374 Temporary Air Rights Agreement**
Motion approving the Temporary Constructon Easement for a crane to be used in construction of the new Cobb County Courthouse.
- * **20090387 Tower Road Exchange Agreement**
Motion to approve Multi-Party Exchange Agreement among the City of Marietta, Tower Partners, LLC, WellStar Health System, Inc. and Kennestone Hospital, Inc., subject to the approval of all other parties thereto and contingent upon all parties carrying out the requirements set forth in the agreement.
- * **20090388 Cogburn Avenue and White Street; Advertisements for Public Hearing**
Motion to authorize staff to conduct the proper and necessary legal advertisements to hold a public hearing on whether or not to close portions of Cogburn Avenue and White Street and, if closed, to authorize multi-party exchange of the closed right-of-way.

SCHEDULED APPEARANCES:**UNSCHEDULED APPEARANCES:****OTHER BUSINESS:**

- * **20090474 591 Frasier Street**
Motion to authorize the acquisition of property owned by Mr. Robert Winch on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.
- * **20090475 932 Roswell Street**
Motion to authorize the acquisition of property owned by William A. Spinks on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.
- * **20090476 704 Fairgate Road**
Motion to authorize the acquisition of property owned by Attic Self Storage on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property.

The city attorney is hereby authorized to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

* **20090477 Property acquisition**

Motion to accept donations from the Marietta Housing Authority for portions of the following properties for Lake Drive Intersection Improvements project:

427 Aviation Road

* **20090478 Property Acquisitions**

Motion authorizing donation of construction and driveway easements for the Kennesaw Avenue Improvements project, for the following properties:

125 Atwood Drive- with stipulation by owner that the existing modular block wall be repaired by city during project.

299 St. Mary's Lane

285 Kennesaw Ave - Stipulation by owner that entrance and retaining wall at right-of-way not be disturbed.

288 Kennesaw Ave

293 Kennesaw Ave

303 Kennesaw Ave - Stipulation that no construction vehicle park on grass during construction

306 Kennesaw Ave - Stipulation that any damage to landscape/hardscape be replaced with like kind of material.

316 Kennesaw Ave - Stipulation that any damage to landscape/hardscape be replaced with like kind of material.

324 Kennesaw Ave - Stipulation that any damage to landscape/hardscape be replaced with like kind of material.

334 Kennesaw Ave - Stipulation that any damage to landscape/hardscape be replaced with like kind of material.

315 Kennesaw Ave - Stipulation that cherry tree on the corner not be disturbed.

345 Kennesaw Ave

383 Kennesaw Ave - Stipulation that brick apron and any damaged brick be replaced with like kind of material.

435 Kennesaw Ave - Stipulation that existing fence and retaining wall not be disturbed.

471 Kennesaw Ave

601 Oakledge Drive

* **20090396 GMA Annual Conference - June 20-23, 2009**

Motion to approve travel and training expenses for the Mayor and Council members who wish to attend the Georgia Municipal Association (GMA) 2009 Annual Convention in Savannah, GA June 20-23, 2009.

* **20090397 GMA Voting Delegates for the 2009 Annual Convention**

Motion to appoint Grif Chalfant as voting delegate and Holly Walquist as

alternate voting delegate for the 2009 GMA Business Meeting being held during the Annual Convention June 22, 2009.

* **20090465 Voting Delegates - MEAG Annual Business Meeting**

Appointment of William B. Dunaway as voting member and Robert Lewis as alternate voting member for MEAG annual business meeting to be held at the Ritz-Carlton, Amelia Island, FL, July 13-15, 2009.

20090400 BLW Actions of May 11, 2009

Review and approval of the May 11, 2009 actions and minutes of the Marietta Board of Lights and Water Works (BLW).

Motion to approve with the exception of agenda item 20090412, which will be tabled until the next regular City Council meeting.

ADJOURNMENT: